

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Yassir Mehmood.

2:15-cv-1522-JAD-CWH

Petitioner

V.

NSDC, CCA, et al.,

Respondents

Order Denying Motion to Proceed *in Forma Pauperis* on Appeal

[ECF 7]

This habeas corpus petition is brought by Yasir Mehmood, who, according to his habeas petition,¹ is incarcerated in the Nevada Southern Detention Center, in Pahrump, Nevada, awaiting a criminal trial in the United States District Court for the Eastern District of California. The court dismissed the action under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts because Mehmood’s application to proceed *in forma pauperis*² was inadequate, his habeas petition was not properly presented, and, at any rate, his habeas petition was meritless because it asserted no claim cognizable in a federal habeas action.³ Judgment was entered on September 25, 2015, and this case was closed.⁴ On October 15, 2015, Mehmood filed a notice of appeal⁵ and a motion to proceed *in forma pauperis* on appeal.⁶ I now deny the motion to proceed with pauper status on appeal because this appeal is not taken in good faith.

¹ ECF 1

2 ECE 2

³ See Order entered September 24, 2015 (ECF 4).

4 ECE 5

5 ECE 6

6 ECE 5

Discussion

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”⁷ The good-faith requirement for *in forma pauperis* status on appeal is satisfied if the appellant seeks review of an issue that is not frivolous.⁸ An action is frivolous if “it lacks an arguable basis either in law or in fact.”⁹

In my September 25, 2015, order denying Mehmood's petition and pauper application, I found his petition frivolous. The thrust of his challenge was to claim he is receiving inadequate law-library access. But that type of relief cannot be redressed with a habeas petition. And Mehmood's petition was also not submitted on the court's approved form.¹⁰ Because Mehmood's petition was frivolous, I find that his appeal would not be taken in good faith.

Conclusion

IT IS THEREFORE ORDERED that the petitioner's Motion to Proceed *in Forma Pauperis* on Appeal (ECF 7) is **DENIED**. The court hereby certifies under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24, that this appeal is not taken in good faith.

Dated this 19th day of October, 2015

Jennifer A. Dorsey
United States District Judge

⁷ 28 U.S.C. § 1915(a)(3); see also Fed. R. App. P. 24.

²⁴ See *Gardner v. Pogue*, 558 F.2d 548, 550-51 (9th Cir.1977) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)) (quotation marks omitted); see also *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir.2002) (if at least one issue or claim is non-frivolous, the appeal may proceed *in forma pauperis*).

²⁷ ⁹ *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

10 ECF 4